

- Page 11 -

fact that the call for the street was made merely for the purpose of convenient description of boundaries as in case of the partition of an estate among heirs, or by any other facts and circumstances showing the absence of an intention to dedicate to public use..." (emphasis added) Id at ___, 123 A.2d at 314-315

The Court further pointed out why Teets did not fall under this ruling when it said:

"In the first place, the term 'Road Way' as applied to the strip in question does not of itself carry any clear-cut inference that a public way was intended. We are not dealing with a built up city or an extension of a city...there is no readily apparent objective of either the sellers or the purchasers of lots which would be served by making the 'Road Way' a public way. On the contrary, it would seem more probable that only owners or purchasers of land in or near the development were intended to be benefited...If the recording of the plat and the sale of lots with reference thereto were sufficient to dedicate the roads or streets shown to public use, the provisions for rights of way over Front Street, Back Street, Thayer Street and the undesignated way along one side of lot No. 41 were wholly superfluous. It should be noted that the name 'street' which the plat gave to several of the projected ways in the development is considerably more suggestive of a public highway than the name 'Road Way.'...It is also very difficult to imagine what reason or purpose might have existed for dedicating to public use as a highway a strip of land immediately adjacent to an existing State highway and running parallel with it for some seven hundred feet." (emphasis added) Id at ___, 123 A.2d at 315-316

In the instant case, the street and alley in question are no different from the others laid out by Nicholas Hall in the plat and it is definite that a public way was intended by him and that the need for these public ways was the objective of his dedicating them to the public, rather than merely for the benefit of the lot owners. He was establishing a town through which the public in general would travel so had to have public ways provided for public movement. There was no other street, highway or alley for their use and towns cannot exist without public ways.

The case of Lundgren vs. J. Fred Main et al., No. 17105 Equity, in the Circuit Court for Frederick County, Maryland, is very similar to Teets and is also quickly distinguishable from the instant case. In Lundgren the deeds